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By PwC Deutschland | 13. November 2024

MoF: Wage tax treatment of employer‘s expenses for employees exposed to safety risks

In a recent circular, the Federal Ministry of Finance (MoF) comments on the question of how expenses for safety measures borne or reimbursed by the employer for employees who are exposed to a specific risk due to their professional position are to be treated for wage tax purposes. The detailed circular was issued with reference to the outcome of discussions with the highest tax authorities of the German Federal States.

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1. Application

The current circular is to be applied in all open cases and replaces the previous MoF letter dated 30 June 1997. In cases where the position is not specifically at risk, the principles of the circular of 30 June 1997 are to be applied for the last time to current wages paid for a wage payment period ending before 1 January 2025 and to other remuneration received before 1 January 2025.

In detail, the MoF comments on the income and wage tax treatment of expenses are as follows:

2. Personal protection

Expenses incurred by the employer for staff exclusively involved in personal protection (e.g. bodyguards, personal protectors) do not give rise to taxable wages for the specific person to be protected as these benefits are granted in the predominantly own operational business interest of the employer.

3. Installation of safety devices

The MoF also deals with the issue of expenses incurred by the employer for the installation of security equipment (basic and special protection) in a rental apartment or in a residential property used for own housing for the protection of specifically exposed employees. Here, the question of whether these benefits are taxable wages or are granted in the employer's own business interests depends on the degree of risk to the individual employee. For wage tax purposes, it is irrelevant whether the ownership of the safety equipment is transferred to the employee or not.

4. Employees with a concrete threat due to their position

The term „threat to the position“ refers to the professional position of a person who is thereby exposed to specific risks.

As far as employees are concerned who are classified by a safety authority in risk levels 1 to 3, the installation of safety equipment does not generally result in taxable wages because the benefits from the installation are granted predominantly in the employer's own business interests. For employees at risk level 3, however, this generally only applies up to the amount provided to comparable federal employees as a standard amount, i.e. EUR 30,000. In the case of higher expenses it is to be presumed that the employer has a predominantly own business interest insofar as the installation of safety equipment was advised by the safety authority.

In the case of employees for which no specific risk situation exists the employer's expenses are taxable wages.

5. Time of accrual

The aforementioned maximum amount also applies if the expenses are incurred in different assessment periods. The taxable benefits accrue to the employee immediately upon installation and at this time are subject to wage tax.

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6. Change of risk exposure

A subsequent change in the risk level does not have any tax consequences (e.g. the identification of a taxable benefit after a reduction, no negative wages if the risk category is increased), unless it takes place during the year in which the safety equipment was installed.

7. Compensation (reimbursement) of installation costs

Reimbursements made by the employer to the employee for the installation of safety equipment or for associated ongoing operating or maintenance costs is not taxable under the conditions laid down in point 4 (second paragraph) above and provided the reimbursements are made in a timely manner, if applicable only on a pro rata basis. In all other cases, the reimbursement of expenses is taxable wage.

Expenses for safety equipment for employees at risk which are not reimbursed by the employer are deductible as income-related expenses. Expenses for safety equipment incurred by an employee who is not specifically at risk are non-deductible costs of private living.

Source:

Federal Ministry of Finance, circular of 11 November 2024 (IV C 5 - S 2332/23/10006 :001).

Schlagwörter

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